

Scoping paper
Prosecution team case building – a joint inspection

A. Introduction

The work carried out by HM Crown Prosecution Service Inspectorate and HM Inspectorate of Constabulary and Fire and Rescue Services over a number of years has shown that there is room to improve the standard of case building by police forces and CPS Areas.

This inspection aims to look at the strength of partnership working to address these issues, assess the impact, and establish what works well in the police and CPS Areas and what can improve.

The proposal is to examine case building in either way and indictable only cases in the magistrates' courts and the Crown Court to the point of the first plea hearing. For magistrates' court cases, this will be the first hearing, and for Crown Court cases, the plea and trial preparation hearing (PTPH). It is proposed to exclude rape and serious sexual offences (RASSO) and cases that are so serious that they require to be dealt with by Complex Casework Units (CCUs) in Areas and the national casework divisions. CCUs and the police specialist teams which send cases to CCUs will be approached to provide evidence about partnership working only.

The technical aspects of communications between the police and CPS, for example, which software police forces use to build and share files, whether forces use a two-way interface, and the impact of the Common Platform are all outside the scope of this inspection but may be considered for future inspection activity. The inspection will comment if it becomes apparent that different systems and IT processes are impacting on the effectiveness of communication and/or case building.

This inspection will not consider compliance with duties in relation to unused material other than compliance with the requirement for the police to supply schedules and material in accordance with the sixth edition of the Director's Guidance on Charging (DG6) and the duty on the prosecution to make initial disclosure in advance of the plea hearing in cases where a not guilty plea is anticipated. The quality of disclosure decisions is not within the remit of this inspection.

B. Inspection Question

How can police forces and CPS Areas improve culture, communications and partnership work on case building in either way and indictable only casework to deliver stronger cases, a better product for the court and defence, and a better service to victims, witnesses, and the public?

C. Objective

To assess the effectiveness and efficiency of the partnership working between the police and CPS Areas and the key processes by which cases are built, how they are brigaded for the first hearing in the magistrates' courts, how they are prepared and managed for subsequent hearings in the magistrates' courts and Crown Court, what impacts there are on court users, and what impacts on efficiency arise when cases are not built to the required standard. These key processes include the cultural aspects of police and CPS

Area teamwork, such as strategic and operational liaison and standard setting, data sharing, and the effectiveness of joint operational improvement meetings.

The inspection will focus on partnership working and will look to identify aspects of good practice or make recommendations where further work is needed.

D. Inspection Criteria

The aim of the inspection is to answer the following questions:

1. Does each agency deliver the most effective and proportionate service to each other in the charging process for either way and indictable only cases?

- a) Do police forces comply with the Director's Guidance on Charging (6th edition) (DG6) and the national file standards (NFS) for the type of case they submit for a charging advice?
- b) Are there systems in place in the police to ensure there is effective investigation, supervision and gate-keeping or other quality assurance of case files before they are submitted for charging advice?
- c) Are CPS Areas' triages of police file submissions effective?
- d) Do CPS Areas use feedback mechanisms effectively to report any lack of compliance with DG6 and NFS?
- e) Are CPS Area action plans being used appropriately to build stronger cases? Are actions relevant, clearly expressed and proportionate, and are target dates realistic?
- f) Are police forces addressing actions set in action plans effectively?
- g) Have the interests of victims, witnesses and the public been addressed in the charging process?
- h) Timeliness in the charging process: are there delays in the charging process in either or both agencies impacting on effective case building (e.g., evidence becoming unavailable, the expiry of summary time limits)?
- i) Is there good communication between the parties to facilitate strong case building?
- j) Is there effective partnership working on an operational level to build strong cases?

2. Are either way and indictable only cases prepared effectively for the first court hearing by the police and CPS Areas?

- a) Are accurate assessments being made by police forces and by CPS Areas of whether a case is anticipated to be a guilty plea or not guilty plea?
- b) Do police forces submit the file after charge in compliance with the timescales set for cases?
- c) How effective are police forces at supplying material requested in an action plan set when charge is authorised?

- d) Do CPS Areas review cases in good time?
 - e) Do CPS Areas identify any remedial work needed or any omissions from any action plan set when charge is authorised, and do they task police forces to carry out additional work or rectify deficiencies in good time for the first hearing?
 - f) Are there effective processes and clear communication between the police and CPS to address key issues to ensure progress can be made at first hearing?
 - g) Are there agreed escalation processes and are they used effectively?
 - h) Are the requirements and processes for redaction clearly understood and implemented effectively?
 - i) Does the file bundle prepared for the defence for the first hearing include accurate information about the prosecution case, with sufficient information to enable the defence to take instructions and give appropriate advice to their client, or for an unrepresented defendant to know what the case against them is?
 - j) Is there engagement with the defence before the first hearing, and is it effective?
 - k) Have the interests of victims, witnesses and the public been addressed when preparing for the first hearing?
 - l) Has the preparation by the police and CPS ensured that the prosecution is able to make the relevant applications at sentencing in GAP hearings, and if a guilty plea is entered on an NGAP case?
3. Are the police and CPS effective and efficient at the first hearing in either way magistrates' court cases?
- a) Do police forces brigade cases into the right courtroom for the first hearing?
 - b) Do any omissions or inaccuracies in the information provided to the court affect the effectiveness of the first hearing?
 - c) What factors in the case bundle for the defence impact the most on the plea entered at the first hearing in magistrates' courts?
 - d) Are there identifiable factors or themes which feature in cases that are expected to be a guilty plea (GAP) and where a not guilty plea is entered?
 - e) Are there identifiable factors or themes which feature in cases that are expected to be a not guilty plea (NGAP) and where a guilty plea is entered?
 - f) Are cases are moved from one courtroom to another on receipt of a plea other than that anticipated? Does this cause delay? What is the impact on the prosecutor(s) in those courtrooms?
 - g) Have the interests of victims, witnesses and the public been addressed by the police and CPS at the first hearing?
4. Are the police and CPS effective and efficient at the plea and trial preparation hearing (PTPH) in Crown Court cases?

- a) Do any omissions or inaccuracies in the information provided to the court affect the effectiveness of the first hearing?
 - b) What factors in the prosecution case bundle for the defence impact most on the plea entered at the PTPH?
 - c) Are there identifiable factors or themes which feature in cases that are expected to be a guilty plea at PTPH and where a not guilty plea is entered?
 - d) Are there identifiable factors or themes which feature in cases that are expected to be a not guilty plea at PTPH and where a guilty plea is entered?
 - e) Have the interests of victims, witnesses and the public been addressed by the police and CPS at the PTPH?
5. What partnership arrangements are in place between the CPS and police to build stronger cases and how effective are they?
- a) Do police forces and CPS Areas have robust quality assurance of the standard of their delivery to each other and other service users?
 - b) Do the processes in place to exchange information facilitate effective communication to build strong cases?
 - c) Is there an effective culture of shared responsibility and effective joint working at operational and strategic levels?
 - d) Are escalation processes or other mechanisms in place for police forces and CPS Areas to hold each other to account on individual cases, are they fit for purpose, and are they used effectively and robustly?
 - e) What measures do police forces and CPS Areas use to assess the strength of prosecution team case building? (For example, DG6 compliance, number of triages or charging consultations, number of hearings per case, timely guilty pleas?)
 - f) How effectively are data and other evidence used to drive improvements in case building in the CPS, in the police, and jointly?
 - g) Are there differences in the partnership arrangements in CPS Areas and police forces where case building is stronger and in places where it is weaker?
 - h) How do any differences impact on case building?
 - i) What are the most significant aspects of police and CPS teamwork that are working well and not working well?
6. Are there efficiencies and better outcomes that can be achieved by improving partnership working? What are the impacts of stronger and weaker police and CPS case building on each other, and on other agencies, the defence, victims, witnesses, and the public?
- a) What is the impact where there are inefficiencies in the charging process (question 1 above)?

- b) What is the impact where cases are not prepared effectively in advance of the first hearing (question 2 above)?
- c) What is the impact where cases are not progressed effectively at the first hearing in the magistrates' courts (question 3 above)?
- d) What is the impact where cases are not progressed effectively at the plea and trial preparation hearing in the Crown Court (question 4 above)?
- e) Are there other efficiencies or improved outcomes that could be achieved by better police and CPS case building?

E. Methodology

There are various options for the methodology, which are discussed in more detail in the planning document (see annex).

- Surveys in all police forces and CPS Areas
- File examination
- Data: existing data within HMICFRS and HMCPSI, and data from police and CPS management information systems.
- Interviews/focus groups in forces and Areas chosen for on-site activity.
- Observations of live police file building in police stations, live charging in CPS Areas (daytime only), and joint operational improvement meetings (JOIM), both operational and strategic
- Workshops for police and CPS (to discuss anonymised cases and identify issues with partnership working and help identify solutions).
- Assessment of possible costs impacts of case building weaknesses and strengths.

F. Other aspects

The resources required, the possible risks to the project and the proposed timescales will depend significantly on what methodology is to be adopted. There are some options considered in the planning document (see annex). It is suggested that scoping, set-up and methodology development are completed by the end of April 2023, with a view to carrying out fieldwork in May-June. Scoping will include which and how many CPS Areas / police forces will be visited as part of the onsite fieldwork.

G. Equality Impact Assessment

A preliminary evaluation of the need for an equality impact assessment (EIA) will be undertaken once scoping has been finalised. It is not anticipated that a full EIA will be required.

Annex - Scope planning document

A. What is in scope?

- Cases in the magistrates' courts and Crown Court where the alleged offences are either way or indictable only.
- Anticipated not guilty and guilty pleas (NGAP and GAP).
- All police forces and all 14 CPS Areas in England and Wales to some extent (such as surveys of relevant staff).
- File examination for six CPS Areas, with two police forces included for each Area. The CPS areas selected will include one pilot Area for the charging protocol. The remaining Areas would be selected based on the range of forces to be included which in turn would reflect different gatekeeping models and a range of performance for file quality based upon the CJS scorecard data. There will be a range of spread of larger and smaller forces/CPS Areas and within that different police IT systems. The forces selected would represent a range of gatekeeping functions be the best and worst performing on a metric to be decided (for example, HMICFRS data or HMCPSI Area Inspection Programme data for file quality).
- On site activity in six CPS Areas, and in the related police forces selected for file examination.
- IT to deliver case papers and to communicate between CPS and police only where it either facilitates or creates a barrier to good communication.

The inspection will exclude:

- Summary only matters and those with only youth defendants.
- Any activity after the plea hearing, which for magistrates' court cases will be the first hearing and for Crown Court cases the PTPH.
- Any cases dealt with in RASSO units, CCUs and specialist divisions, and the police specialist teams.
- Any assessment of compliance with disclosure duties other than the compliance with process (i.e., not a qualitative assessment) for the provision of the schedules/materials required under DG6, and service (or purported service) of initial disclosure where required in advance of the plea hearing.
- Detailed assessment of the IT used to deliver case papers and to communicate between police and CPS.

B. Methodology

1. Surveys in all police forces and CPS Areas in England and Wales

- CPS Area Complex Casework Units (CCUs) and the specialist police teams whose work is dealt with in CCUs; this is to understand better the relationships in more serious cases, and to derive any good practice or strengths that could inform case building in volume crime.
- Frontline police officers preparing files for either way and indictable only prosecutions
- Police case builders, CJU managers, gatekeepers and any others involved in managing case building and assessing the anticipated plea.
- CPS operational delivery staff involved in managing triage, charging delivery and preparation for the first hearing.

- CPS prosecutors involved in charging delivery, preparation for the first hearing and advocacy at the hearing.

2. File examination

- Use of existing data from HMCPSP and HMCFRS on the standard or work carried out at charging, in preparation for the first hearing and at the first hearing. The PEEL review by HMCFRS has limited data for this purpose, and some of the AIP data in HMCPSP is now quite old.
- Use of data from the domestic abuse (DA) thematic inspection by HMCPSP. This is more recent, and DA comprises a significant proportion of CPS work, but the questions set does not tackle a number of the aspects above, and it was not a joint inspection.
- File examination of new files as the primary source, or in addition to data from the above two options. The size of the file sample needs to be credible, but also manageable. We propose:
 - A single questionnaire completed jointly by HMCFRS inspectors and HMCPSP inspectors using the CPS case management system and police systems.
 - Examination of 20 files from each CPS Area, using ten cases from each of the two police forces per Area (selected as discussed above in section A) delivers a file sample of 120 cases.

3. Analysis and landscape review

- Analysis of the findings from the above activities before moving on to on site work.
- Fact-finding and review of police-prosecutor partnership working on case building in other jurisdictions, such as Scotland or the US.

4. Observations

- Live police file building in police stations.
- Live charging in CPS Areas (daytime only).
- Joint operational improvement meetings (JOIM), one operational and one strategic per police force visited on site.

5. Interviews and focus groups in the forces/Areas chosen for site visits.

- Interviews and/or focus groups with frontline officers building case files (these could be undertaken as observations are conducted).
- Interviews and/or focus groups with police case builders, CJU managers, gatekeepers and any others involved in managing case building.
- Interviews and/or focus groups with CPS operational delivery staff involved in managing triage, charging delivery and preparation for the first hearing.

- Interviews with CPS prosecutors involved in charging delivery, preparation for the first hearing and advocacy at the plea hearing (in magistrates' courts and Crown Court).
- Interviews with police and CPS Area staff involved in partnership working at operational and strategic levels, including those attending operational JOIMs, strategic JOIMs, charging boards, disclosure boards and LCJBs.

6. Data

Analysis of data from the police forces and CPS Areas (such as that prepared for JOIM meetings) and from the CPS charging dashboard and databank will be used to supplement the inspection findings.

7. Partnership working group workshops

Workshops in Areas selected for fieldwork to discuss anonymised cases and identify issues with partnership working and help identify solutions. These will bring together police and Area staff in workshops for various grades and/or roles in case building, for example a focus group of frontline police officers and CPS lawyers, a separate workshop for police gatekeepers and case builders with CPS operational delivery and legal staff, one for operational managers in the police and CPS, and one for strategic managers.

8. Assessing impact

It is proposed that the inspection devise a series of approximate measures for the costs of case building activity and uses these to assess the impact where case building has fallen short, or what the benefits and possible savings are of effective working.